IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10121 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RASIKBHAI K. KOTECHA

Versus

CHIEF OFFICER

Appearance:

1. Special Civil Application No. 10121 of 1993

MR PM THAKKAR for Petitioner No. 1-15

GOVERNMENT PLEADER for Respondent No. 1-2

MR MANOJ N POPAT for Respondent No. 1

MR YOGESH S LAKHANI for Respondent No. 1

NOTICE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 25/03/2004

ORAL JUDGEMENT

The petitioners, who were working as Rojamdars in Khambhaliya Nagarpalika on different posts, have

approached this Court by way of filing the present Special Civil Application under Article 226 of the Constitution for an appropriate writ or order for quashing and setting aside the decision of the respondents to terminate the services of the petitioners, and by way of interim relief the petitioners have also prayed to stay implementation, execution, and operation of the decision of the respondents to terminate the services of the petitioners. That pursuant to interim order passed by this Court on 4.10.1993 all the petitioners are protected and they are continued by the respondents. Today, when the petition is called out for final hearing, ld. advocate appearing for the petitioners has submitted that Administrator of Khambhaliya Nagarpalika had submitted a proposal dated 22.9.1993 to the Collector, Jamnagar for extension of tenure of 19 Rozamdar employees who were working with Khambhaliya Nagarpalika, and the Collector, Jamnagar, by his communication dated 27.9.1993 has informed the Administrator of Khambhaliya Nagarpalika that he has no jurisdiction to grant extension and therefore permission is not granted by him for extension. According to the petitioners, on the basis of the said communication dated 27.9.1993, a decision has been taken by the Khambhaliya Nagarpalika to terminate the services of the petitioners and therefore they have approached this Court by way of this Special Civil Application.

2. Initially, there were 11 petitioners in the present Special Civil Application, and by order dated 30.9.1993 amendment was granted by which petitioners No. 12 to 15 were added as petitioners vide paragraph 5-A which reads as under;

> "5-A. The petitioners no. 12 to 15 were terminated in year 1989, and therefore they approached the labour court. The labour court directed the respondents to reinstate the petitioners as the petitioners had completed one year. The petitioners say that the petitioners are not aware that the proceedings at labour court are pending or not. The petitioners undertake to give full particular of that order."

Even today, no particulars are given by the petitioners with regard to the case of the petitioners No. 12 to 15 as to whether any order is passed by the labour court or particulars in respect of industrial disputes raised by petitioners No. 12 to 15 though as far back as on 30th September 1993 the petitioners had undertaken before this

Court to give full particulars. Be that as it may, there is no decision, on record of the case, taken by the Khambhaliya Nagarpalika to terminate the services of the petitioners. Mr. Popat, learned advocate appearing for the respondents has submitted that some of the petitioners had approached the labour court and the labour court has declined to grant any relief in their favour. However, as nothing is on record and no affidavit-in-reply has also been filed on behalf of the respondents, no cognizance can be taken of the alleged decision. However, the fact remains that there is no decision on record suggesting that the respondent has taken any decision to terminate the services of the petitioners pursuant to the decision of the Collector, Jamnagar, dated 27.9.1993. However, in view of the fact that all the petitioners are continued pursuant to the interim order passed by this Court, it will be in the fitness of things to observe that as and when decision is taken by the Khambhaliya Nagarpalika to terminate the services of the petitioners, the same can be done after following due procedure in accordance with law.

3. With these observations, the present Special Civil Application is disposed of. Interim relief stands vacated. Rule is made absolute to the aforesaid extent only.

rmr. [M.R. Shah, J.]